

Filed for intro on 02/22/95
Senate Bill _____
By _____

House No. HB1406
By Jones, Jr.

AN ACT to enact the "Child Curfew Act of 1995" regulating the presence of children under the age of eighteen (18) years in public streets and other places between certain hours; defining duties of parents or others in care of children; and providing penalties for violations thereof.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as, the "Child Curfew Act of 1995."

SECTION 2.

(a) It is unlawful for any minor under eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the county during the period ending at 6:00 a.m. and beginning at:

(1) 12:00 a.m. on Saturday and
Sunday mornings, and

(2) 10:00 p.m. on Saturday night
through Thursday night.

(b) It is unlawful for any minor sixteen (16) years of age and under to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the county during the period ending at 6:00 a.m. and beginning at:

(1) 11:00 p.m. on Friday and
Saturday nights, and

(2) 10:00 p.m. on Sunday night
through Thursday night.

(c) It is unlawful for a parent or guardian of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of subsections (a) and (b) of this act. The term “knowingly” includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent’s legal custody. The term “knowingly” is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(d) The following are valid exceptions to the operation of the curfew.

(1) At any time, if a minor is accompanied by his or her parent or guardian;

(2) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian’s place in accompanying the minor for a designated period of time and purpose within a specified area;

(3) Until the hour of 12:30 a.m., if the minor is on an errand as directed by his or her parent;

(4) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of his or her employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer.

(5) Until the hour of 12:30 a.m. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(6) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond 1 a.m.

(7) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place or origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(8) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such

exercise and provide notice to the city officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number, addressed to the mayor of the county specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in such communication;

(9) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel; and

(10) Each of the foregoing exceptions, and the limitations are severable.

(e) When any child is in violation of this act, the apprehending officer shall act in one (1) of the following ways:

(1) In the case of a first violation, and if in the opinion of the officer such action would be effective, take the child to his home and warn and counsel with the parents or guardians;

(2) Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or

(3) Bring the child into the custody of the juvenile court for disposition.

(f)

(1) Any person found by the juvenile court to be guilty of the first offense of violating one (1) of the above provisions commits a Class C misdemeanor punishable by a fine of fifty dollars (\$50.00) or up to fifty (50) hours of community service to be supervised by the appropriate juvenile court official.

(2) A parent or guardian found guilty of a second offense commits a Class B misdemeanor.

(3) A minor found guilty of a second offense violation of this act shall be ordered to do not less than fifty (50) nor more than two hundred fifty (250) hours of community service to be designated by an appropriate juvenile court authority and supervised by such authority.

(4) A parent or guardian found guilty of a third or subsequent offense commits a Class B misdemeanor.

(5) A minor convicted of a third or subsequent offense shall be sentenced as if such minor committed a Class A misdemeanor punishable only by not less than one hundred twenty (120) hours of community service work. The appropriate juvenile court authority shall designate and supervise such work.

(6) If a minor is operating a motor vehicle while in violation of curfew, the minor's license shall be suspended for a period of not less than ninety (90) days nor more than one (1) year.

SECTION 3. The provisions of this act shall apply to any county having a population of more than seven hundred thousand (700,000), according to the 1990 federal census or any subsequent federal census.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.